

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LAMMERS BARREL PRP GROUP,	)	CASE NO. 3:17-cv-00135-WHR
)	
Plaintiff,	)	JUDGE WALTER H. RICE
	)	MAGISTRATE JUDGE SHARON L.
v.	)	OVINGTON
)	
CARBOLINE COMPANY, <i>et al.</i>	)	ETC SUNOCO HOLDINGS, LLC
	)	F/K/A SUNOCO, INC.'S AND
Defendants.	)	CARBOLINE COMPANY'S
	)	MOTION <i>IN LIMINE</i> TO EXCLUDE
	)	OPINIONS OF PLAINTIFF'S
	)	EXPERTS

Pursuant to Rule 702 of the Federal Rules of Evidence, Defendants ETC Sunoco Holdings, LLC f/k/a Sunoco, Inc. (“Sunoco”) and Carboline Company (“Carboline”), by and through their undersigned counsel, move the Court *in limine* for an Order precluding Plaintiff, Lammers Barrel PRP Group (“Plaintiff”), from introducing opinion testimony from their two proffered experts – Richard Williams and Matthew Low – that (a) purports to advise the Court as to how it should allocate responsibility between Plaintiff and the defendants in this action; (b) purports to assign an owner-operator percentage of liability to The Moran Paint Company for alleged contamination at the Lammers Barrel Superfund Site (the “Site”); (c) relies on depositions taken in 2001 and 2003 of former Site employees or weighs the credibility of witnesses; or (d) attempts to transmit inadmissible hearsay evidence such as depositions, or newspaper articles or columns, to the Court.

As set forth more fully in the attached Memorandum in Support of this Motion, Mr. Low has already been excluded by a court that declined to permit him to usurp that court’s responsibility

to perform an equitable allocation among the parties. Additionally, both he and Dr. Williams base their opinions almost exclusively on the testimony of witnesses that neither Sunoco nor Carboline cross-examined, and they expressly opine on the credibility of the testimony obtained in those depositions. Dr. Williams also admits to pure speculation in giving an opinion on owner-operator allocation. These experts' opinions should be excluded at trial.

Date: November 5, 2019

Respectfully submitted,

/s/ William E. Coughlin

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Carboline Company

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2019, the foregoing **ETC SUNOCO HOLDINGS, LLC F/K/A SUNOCO, INC.’S AND CARBOLINE COMPANY’S MOTION *IN LIMINE* TO EXCLUDE OPINIONS OF PLAINTIFF’S EXPERTS**, with its Memorandum in Support and supporting Exhibits, was filed electronically. Notice of this filing will be sent by operation of the Court’s electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court’s system.

/s/William E. Coughlin

One of the Attorneys for ETC Sunoco
Holdings, LLC f/k/a Sunoco, Inc. and
Carboline Company